

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1118

Introduced by Assembly Member Hayashi

February 27, 2009

An act to amend ~~Section 7195~~ *Sections 7195 and 7197* of, and to add ~~Section 7195.5~~ *Sections 7195.5, 7195.7, and 7195.9* to, the Business and Professions Code, relating to home inspectors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1118, as amended, Hayashi. Home inspectors.

Existing law provides that it is the duty of a home inspector, as defined, who is not licensed as a general contractor, structural pest control operator, or architect, or registered as a professional engineer, to conduct a home inspection with the degree of care that a reasonably prudent home inspector would exercise. Existing law provides that certain actions by a home inspector, a company that employs the inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector, constitute an unfair business practice.

This bill would ~~declare the intent of the Legislature to adopt minimum qualifications for certification as a home inspector in California, and would make conforming changes to a related provision~~ *require any person who makes a home inspection on or after January 1, 2012, to be certified by a home inspection association, as defined, and to meet specified minimum experiential, training, examination, and continuing education requirements, with a specified exception. The bill would require the Office of Professional Examination Services of the Department of Consumer Affairs to approve by July 1, 2011, the*

examination that a home inspector association is required to accept for certification of a home inspector. The bill would also, on and after January 1, 2012, require a home inspector to make specified written disclosures to a client about his or her certification, experience, education, and insurance coverage and require a home inspection association to publish and maintain active rosters of all of the home inspectors certified by the association. The bill would provide that, on and after January 1, 2012, it is an unfair business practice to hold oneself out as being a home inspector or to issue a home inspection report, unless one is certified.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7195 of the Business and Professions
2 Code is amended to read:
3 7195. For purposes of this chapter, the following definitions
4 apply:
5 (a) (1) “Home inspection” is a noninvasive, physical
6 examination, performed for a fee in connection with a transfer, as
7 defined in subdivision (e), of real property, of the mechanical,
8 electrical, or plumbing systems or the structural and essential
9 components of a residential dwelling of one to four units designed
10 to identify material defects in those systems, structures and
11 components. “Home inspection” includes any consultation
12 regarding the property that is represented to be a home inspection
13 or any confusingly similar term.
14 (2) “Home inspection,” if requested by the client, may include
15 an inspection of energy efficiency . Energy efficiency items to be
16 inspected may include the following:
17 (A) A noninvasive inspection of insulation R-values in attics,
18 roofs, walls, floors, and ducts.
19 (B) The number of window glass panes and frame types.
20 (C) The heating and cooling equipment and water heating
21 systems.
22 (D) The age and fuel type of major appliances.
23 (E) The exhaust and cooling fans.
24 (F) The type of thermostat and other systems.

1 (G) The general integrity and potential leakage areas of walls,
2 window areas, doors, and duct systems.

3 (H) The solar control efficiency of existing windows.

4 (b) A “material defect” is a condition that significantly affects
5 the value, desirability, habitability, or safety of the dwelling. Style
6 or aesthetics shall not be considered in determining whether a
7 system, structure, or component is defective.

8 (c) A “home inspection report” is a written report prepared for
9 a fee and issued after a home inspection. The report clearly
10 describes and identifies the inspected systems, structures, or
11 components of the dwelling, any material defects identified, and
12 any recommendations regarding the conditions observed or
13 recommendations for evaluation by appropriate persons.

14 (d) A “home inspector” is any individual who performs a home
15 inspection and, *on and after January 1, 2012*, meets the
16 qualifications of Section 7195.5.

17 (e) “Transfer” is a transfer by sale, exchange, installment land
18 sales contract, as defined in Section 2985 of the Civil Code, lease
19 with an option to purchase, any other option to purchase, or ground
20 lease coupled with improvements, of real property or residential
21 stock cooperative, improved with or consisting of not less than
22 one nor more than four dwelling units.

23 (f) A “home inspection association” is an organization of home
24 inspectors or companies in the home inspection industry that is
25 organized under Section 501(c) of the Internal Revenue Code and
26 registered with the Secretary of State and that, *on and after*
27 *January 1, 2012*, certifies, without requiring membership in the
28 association, that a home inspector has met the criteria set forth
29 in Section 7195.5.

30 SEC. 2. Section 7195.5 is added to the Business and Professions
31 Code, to read:

32 ~~7195.5.—It is the intent of the Legislature to adopt minimum~~
33 ~~qualifications for certification as a home inspector in California.~~

34 7195.5. (a) *On and after January 1, 2012, no person shall*
35 *conduct a home inspection unless he or she is certified pursuant*
36 *to the requirements set forth in this section.*

37 (b) *As a condition of becoming certified, a home inspector shall*
38 *demonstrate to a home inspection association that he or she has*
39 *satisfied all of the following requirements:*

1 (1) Performed at least 250 home inspections under the direct
2 supervision of a home inspector or has completed at least 120
3 hours of formal home inspection training, 40 of which shall have
4 been in the form of an unpaid field-based practicum in the
5 performance of home inspections.

6 (2) Passed within the last five years an examination attesting
7 to his or her competence in the field of home inspection that has
8 been approved by the Office of Professional Examination Services
9 of the Department of Consumer Affairs.

10 (c) As a condition of maintaining his or her certification, a home
11 inspector shall annually demonstrate to a home inspection
12 association that he or she has completed at least 20 hours of
13 continuing education in the preceding 12 months.

14 (d) The Office of Professional Examination Services of the
15 Department of Consumer Affairs shall approve the examination
16 specified in paragraph (2) of subdivision (b) on or before July 1,
17 2011.

18 (e) The examination requirement specified in paragraph (2) of
19 subdivision (b) shall not apply to a home inspector who had
20 already passed a recognized examination in the field of home
21 inspection prior to January 1, 2012.

22 SEC. 3. Section 7195.7 is added to the Business and Professions
23 Code, to read:

24 7195.7. Prior to beginning a home inspection on or after
25 January 1, 2012, a home inspector shall disclose in writing to the
26 party on whose behalf the home inspection is being performed, all
27 of the following:

28 (a) A statement disclosing the name, address, and telephone
29 number of the home inspection association by which the home
30 inspector is certified and the date of his or her initial certification.

31 (b) A statement relating to the home inspector's experience and
32 education.

33 (c) A statement disclosing whether the home inspector maintains
34 professional liability insurance and, if so, the amount of coverage.

35 (d) A statement disclosing whether the home inspector maintains
36 general business liability insurance and, if so, the amount of
37 coverage.

38 SEC. 4. Section 7195.9 is added to the Business and Professions
39 Code, to read:

1 7195.9. *On and after January 1, 2012, a home inspection*
2 *association that certifies home inspectors under this chapter shall*
3 *publish and maintain an active roster of all of the home inspectors*
4 *it currently certifies.*

5 SEC. 5. *Section 7197 of the Business and Professions Code is*
6 *amended to read:*

7 7197. (a) It is an unfair business practice for a home inspector,
8 a company that employs the inspector, or a company that is
9 controlled by a company that also has a financial interest in a
10 company employing a home inspector, to do any of the following:

11 (1) ~~To perform~~ *Perform* or offer to perform, for an additional
12 fee, any repairs to a structure on which the inspector, or the
13 inspector's company, has prepared a home inspection report in the
14 past 12 months.

15 (2) Inspect for a fee any property in which the inspector, or the
16 inspector's company, has any financial interest or any interest in
17 the transfer of the property.

18 (3) ~~To offer~~ *Offer* or deliver any compensation, inducement, or
19 reward to the owner of the inspected property, the broker, or agent,
20 for the referral of any business to the inspector or the inspection
21 company.

22 (4) Accept an engagement to make an inspection or to prepare
23 a report in which the employment itself or the fee payable for the
24 inspection is contingent upon the conclusions in the report,
25 preestablished findings, or the close of escrow.

26 (5) *On and after January 1, 2012, hold oneself out as a "home*
27 *inspector" or "certified home inspector" or use any confusingly*
28 *similar title, designation, or descriptor without having met the*
29 *requirements for certification prescribed in Section 7195.5.*

30 (6) *On and after January 1, 2012, issue a home inspection*
31 *report, as described in subdivision (a) of Section 7195, without*
32 *having met the requirements for certification set forth in Section*
33 *7195.5.*

34 ~~(5)~~

35 (b) A home protection company that is affiliated with or that
36 retains the home inspector does not violate this section if it
37 performs repairs pursuant to claims made under the home
38 protection contract.

39 ~~(b)~~

- 1 (c) This section shall not affect the ability of a structural pest
- 2 control operator to perform repairs pursuant to Section 8505 as a
- 3 result of a structural pest control inspection.